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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/827,241 | 04/20/2004 | David Terry Woods | 90035 | 2539 |

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| EXAMINER |
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SMITH, RICHARD A

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| ART UNIT | PAPER NUMBER |
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2859

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H-2

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|------------------------------|---------------------------------------|---|--|
| Office Action Summary | Application No. 10/827,241 | Applicant(s) WOODS, DAVID TERRY | |
| | Examiner R. Alexander Smith | Art Unit 2859 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20040915</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 38 03 388 to Sieger in view of U.S. 4,821,026 to Newsom.

Sieger discloses a portable air horn apparatus, comprising an air horn (1) adapted to generate sound when supplied with air under pressure; an air compressor (2) adapted to generate air under pressure; an air conduit interconnecting said compressor and said air horn enabling said air under pressure generated by said compressor to be supplied to said air horn (in a broad sense, the space in the tube between t and l is a conduit), an electric motor (4) adapted to operate said air compressor when energized; a portable source of electrical energy (5); a housing for physically supporting and interconnecting at least said air horn, compressor, electric motor, on-off switch and portable source of electrical energy, and including a handle (the entire assembly as shown is the handle since it is a part designed to be grasped by the hand) adapted to be

manually graspable by a user of the device; said housing includes an elongated tubular element enclosing and retaining said air horn, said electrical motor and said compressor; said portable source of electrical energy is a battery; and means for supporting at least part of a portable energy source for the apparatus (via inclusion in the housing). Furthermore, Sieger appears to show a switch (unmarked on the left side of the housing).

Sieger does not disclose electrical circuitry electrically connecting said portable source of electrical energy to said electric motor to enable said electric motor to be energized, said circuitry including a manually operable on-off switch having a first position opening said circuitry and a second position closing said circuitry; said on-off switch has a trigger that is biased by a spring to an "off" position, but may be moved to and held in an "on" position by squeezing the trigger against force of said spring; and said portable source of energy weighs 2.5 Kg or less.

Newsom discloses a portable alarm wherein the device includes electrical circuitry to connect the components and a first open off position and a second closed on position wherein a trigger is pressed and held to an "on" position against a biasing force. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add the circuitry and the manually operated, normally opened, momentary switching trigger, as suggested by Newson, to the air horn, taught by Sieger, in order to allow manual activation of the air horn only when needed and to avoid draining the batteries.

With respect to the spring being the biasing means: The use of a particular type of biasing means, i.e., a spring, as claimed by Applicant, is considered to be nothing more than the use of one of numerous and well known alternate types of biasing means that a person having ordinary

skill in the art would have been able to provide using routine experimentation in order to maintain the switching trigger in the desired position, as already suggested by Newson.

With respect to claim 11 and the portable source of energy weighing 2.5 Kg or less: This weight limitation is only considered to be the "optimum" values of the weight of the batteries of the air horn disclosed by Sieger, as stated above, that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the providing the desired length of operation and/or volume output while still maintaining portability. See In re Boesch, 205 USPQ 215 (CCPA 1980).

3. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sieger and Newsom as applied to claims 1, 3, 4, 6, 11 and 12 above, and further in view of U.S. 3,588,358 to Rudmose.

Sieger and Newsom together teach all that is claimed as discussed in the above rejections of claims 1, 3, 4, 6, 11 and 12 except for said on-off switch is positioned on said handle at a position in which said switch is operable by a finger of said user when grasping said handle, and said handle is an elongated member attached to said elongated tubular element at one end of said handle and extending at an angle from said tubular element to form a pistol grip.

Rudmose discloses an audio producing device having a tubular elongate housing and a finger operated, normally opened switch (5) in the handle, and the handle is an elongated member attached to said elongated tubular element at one end of said handle and extending at an angle from said tubular element to form a pistol grip. Therefore, it would have been obvious to

one of ordinary skill in the art at the time of the invention to modify the portable air horn, taught by Sieger and Newsom, to include a pistol grip with finger trigger, as suggested by Rudmose, in order to allow the user to adopt a more natural grip for holding and positioning the air horn.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sieger and Newsom as applied to claims 1, 3, 4, 6, 11 and 12 above, and further in view of U.S. 5,032,824 to Corbin.

Sieger and Newsom together teach all that is claimed as discussed in the above rejections of claims 1, 3, 4, 6, 11 and 12 except for said battery is a rechargeable battery.

Corbin discloses a portable alarm wherein the batteries comprise rechargeable Ni Cd's with a charger (column 4, lines 29-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the batteries, taught by Sieger, as rechargeable batteries, as taught by Newsom, in order to reduce the need to open the device to change batteries and to potentially save money if the device is used regularly.

5. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sieger and Newsom as applied to claims 1, 3, 4, 6, 11 and 12 above, and further in view of U.S. 5,465,196 to Hasenberg et al.

Sieger and Newsom together teach all that is claimed as discussed in the above rejections of claims 1, 3, 4, 6, 11 and 12 except for the limitations of claims 7-10.

Hasenberg et al. discloses an appliance in the form of a light having an elongated body wherein a rechargeable battery is inserted into the bottom end in order to replace C, D or 6 volt batteries. Hasenberg discloses the battery includes an enlarged body and an elongated projection extending from a surface of said body, said elongated projection being adapted to extend into said handle and to be retained therein while said enlarged body remains at least partially outside said handle (figure 1), the enlarged body has a generally flat lower surface that enables said battery to act as a stand for the apparatus when positioned with said lower surface on a flat support (figure 2), and the projection of said battery is releasably retained in said handle thus enabling said battery to be detached from said housing and reattached or replaced when desired (via 36-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bottom end and replace the batteries, taught by Sieger, to accommodate rechargeable batteries, as suggested by Hasenberg et al., in order to reduce the need to open the device in order to change batteries and to save money if the device is used regularly.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related devices.

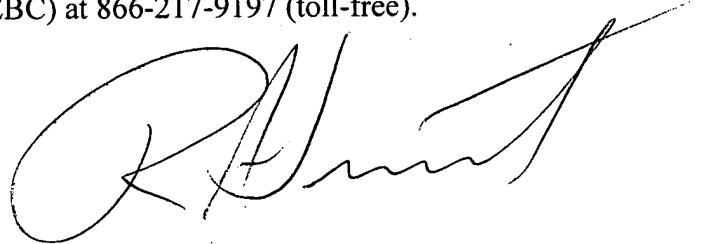
Art Unit: 2859

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251.

The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a large, stylized initial 'R' and a long, sweeping horizontal stroke extending to the right.

R. Alexander Smith
Primary Examiner
Technology Center 2800

RAS
October 18, 2005